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| EXAMINER | |
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| GILES, NICHOLAS G | |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/635,862 | DELUCA ET AL. | |
| | Examiner | Art Unit | |
| | Nicholas G. Giles | 2622 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *02 October 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-41 and 74-83* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-41 and 74-83* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *02 October 2007* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Drawings*

1. The drawings were received on 10/02/2007. These drawings are accepted.

### *Claim Objections*

2. The previous objections are withdrawn as the claims have been amended.

### *Claim Rejections - 35 USC § 112*

3. The previous 35 U.S.C. 112 rejections are withdrawn as the claims have been amended.

### *Double Patenting*

4. The duplicated claim double patenting rejection is withdrawn as claim 36 has been amended.

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claim **74** is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 15 of copending Application No. 10/635918. Although the conflicting claims are not identical, they are not patentably distinct from each other because the '918 claim is only different by stating that things are done digitally. Performing operations in a digital manner in a digital camera is inherent and therefore analyzing the metadata in a digital environment is an obvious modification to the claim.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

It is noted that on page 10 of the response that it was stated that a terminal disclaimer was filed with the response. However no terminal disclaimer has been received.

***Response to Arguments***

7. Applicant's arguments with respect to claims 1, 2, 4, 6, 11, 12, 18, 19, 21, 22, 24, 26, 27, and 29 have been considered but are moot in view of the new ground(s) of rejection.

8. Applicant's arguments filed 10/02/2007 have been fully considered but they are not persuasive.

9. Applicant states that Matama is not prior art for claims 74-76, 78-80, and 82 and cites sections in priority patent 6,407,777. The examiner points out that there was no mention of meta-data previously therefore the claims receive no priority from the patent.

10. Applicant argues that in claims 31-34 and 36-41 that the "spectral nature of the flashlight" in not considered image acquisition device-specific information because it isn't the spectral response curve of the image sensor. The examiner points out that spectral nature of the flashlight is taken into consideration so that the spectral response of the sensor (i.e. original colors) is remapped to take the flashlight into account.

11. Applicant argues that Velasquez et al. does not disclose using aperture or sensor size as meta-data that is analyzed. The examiner points out that in ¶0027 and further ¶0027-0038 that these are used in the calculations used to score the image content for the possibility of red-eye, and therefore are analyzed. Further the examiner points out that focal plane resolution expressed in pixels per inch is a sensor size with the number of pixels within that size.

***Claim Rejections - 35 USC § 102***

12. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

13. Claims **31-34, and 36-41** are rejected under 35 U.S.C. 102(e) as being anticipated by Silverbrook (U.S. Pub. No. 2004/0032526).

Regarding claim **31**, Silverbrook discloses:

> A method of filtering a red-eye phenomenon from an acquired digital image comprising a multiplicity of pixels indicative of color, the pixels forming various shapes within the image (eyes, face), the method comprising: (a) analyzing meta-data information including image acquisition device-specific information including a spectral response curve of a sensor of an acquisition device with which the image was acquired (¶0026, spectral nature which has a response curve, spectral nature of the flashlight is taken into consideration so that the spectral response of the sensor (i.e. original colors) is remapped to take the flashlight into account); and (b) determining, based at least in part on said meta-data analysis, whether one or more regions within said digital image are suspected as including red eye artifact (¶0023-0026).

Regarding claim **32**, see the rejection of claim 31 and note that Silverbrook further discloses:

> Meta-data information comprising a color transformation from raw sensor pixel values to saved image pixel values (¶0025-0026).

Regarding claim **33**, see the rejection of claim 31 and note that Silverbrook further discloses:

> Determining operation including a probability determination process based upon a plurality of criteria (¶0023-0026, flash, determination of eye, faces).

Regarding claim **34**, see the rejection of claim 31 and note that Silverbrook further discloses:

> Meta-data information comprising acquisition device-specific information (¶0023-0026, flash used, spectral nature of flash).

Regarding claim **36**, see the rejection of claim 35 and note that Silverbrook further discloses:

> Meta-data comprising a color transformation from raw sensor pixel values to saved image pixel values (¶0025-0026).

Regarding claim **37**, see the rejection of claim 31 and note that Silverbrook further discloses:

> Color values of said pixels indicative of red eye color being calculated based on a spectral response of said red eye phenomenon (¶0025-0026).

Regarding claim **38**, see the rejection of claim 31 and note that Silverbrook further discloses:

> Spectral response of said red eye phenomenon being according to illumination by a spectral distribution of a camera flash unit (¶0025-0026).

Regarding claim **39**, see the rejection of claim 31 and note that Silverbrook further discloses:

> Spectral distribution of said camera flash unit being as recorded by said sensor of said acquisition device with which said image was acquired (¶0023-0026).

Regarding claim **40**, see the rejection of claim 31 and note that Silverbrook further discloses:

> Determining operation including comparing pixels indicative of red eye color and a multiplicity of pixels forming various shapes (¶0023-0026, eye, faces).

Regarding claim **41**, see the rejection of claim 31 and note that Silverbrook further discloses:

> Pixels indicative of red eye color being calculated based on an inverse transformation of said color transformation from raw sensor pixel values to saved image pixel values (¶0024-0026).

### *Claim Rejections - 35 USC § 103*

14. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

15. Claims **1-30 and 74-83** are rejected under 35 U.S.C. 103(a) as being unpatentable over Matama et al. (U.S. Patent No. 7,042,501) in view of Velazquez et al. (U.S. Pub. No. 2003/0161506).

Regarding claim **1**, Matama et al. discloses:

> A method of filtering a red-eye phenomenon from an acquired digital image comprising a multiplicity of pixels indicative of color, the pixels forming various shapes within the image (eyes, etc.), the method comprising: (a) analyzing meta-data information including image acquisition device-specific information (7:52-8:38, 13:15-31 and Fig. 3); and (b) determining, based at least in part on said meta-data analysis, whether one or more regions within said digital image are suspected as including red eye artifact (7:52-8:38, 13:15-31 and Fig. 3).

Matama et al. is silent with regards to the acquisition device information including aperture, f-stop, color transformation, CCD size or depth of field, or combinations thereof. Velazquez et al. discloses using depth of field in ¶0026. Velazquez et al. discloses in ¶0026 that this is advantageous because based on this information image content can be scored and then many face like regions can be bypass for red-eye detection. For this reason it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Matama include depth of field as acquisition device information.

Regarding claim **2**, see the rejection of claim 1 and note that Matama et al. further discloses:

> Analyzing pixel information within one or more regions suspected as including red eye artifact based on said meta-data analysis, and determining whether any of said one or more suspected regions continue

to be suspected as including red eye artifact based on said pixel analysis, said pixel analysis being performed after said meta-data analysis (7:52-8:38, 13:15-31 and Fig. 3).

Regarding claim **3**, see the rejection of claim 1 and note that Matama et al. further disclose:

Pixel analysis is performed after meta-data analysis (7:52-8:38, 13:15-31 and Fig. 3).

Regarding claim **4**, see the rejection of claim 1 and note that Matama et al. further discloses:

Analyzing pixel information within said digital image, and determining whether one or more same or different regions are suspected as including red eye artifact based on said pixel analysis, said pixel analysis being performed independent of said meta-data analysis (7:52-8:38, 13:15-31 and Fig. 3).

Regarding claim **5**, see the rejection of claim 1 and note that Matama et al. is silent with regards to using anthropometrical data. Velazquez et al. discloses this in ¶0013-0041. Velazquez et al. discloses in ¶0041 that an advantage to using anthropometrical data is that when a face candidate region score based on the data is below a threshold the region doesn't have to be evaluated for redeye. For this reason it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Matama's data include anthropometrical data.

Regarding claim **6**, see the rejection of claim 1 and note that Matama et al. further discloses:

> Filtering being executed at least partially within a portable image acquisition device, having no photographic film (4:45-55, CCD).

Regarding claim **7**, see the rejection of claim 1 and note that Matama et al. is silent with regards to post-processing on an external device. Velazquez et al. discloses this in ¶0042. An advantage to post-processing on an external device is that an external device with more advanced capabilities can be used to manipulate the image then the camera has available. For this reason it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Matama include post-processing on an external device.

Regarding claim **8**, see the rejection of claim 7 and note that Matama et al. further discloses:

> Some or all of said meta-data analysis being performed on said image acquisition device (7:52-8:38, 13:15-31 and Fig. 3).

Regarding claim **9**, see the rejection of claim 8 and note that Velazquez et al. further discloses marking the regions suspected as containing red eye artifact based on analysis on the external device in ¶0013-0041. An advantage to marking the regions suspected as containing red eye artifact based on analysis on the external device is that an external device with more advanced capabilities can be used to manipulate the image then the camera has available. For this reason it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Matama

include marking the regions suspected as containing red eye artifact based on analysis on the external device.

Regarding claim **10**, see the rejection of claim 7 and note that meta-data analysis on the image acquisition device can be found in the rejection of claim 1. Velazquez et al. further discloses in ¶0013-0041 meta-data analysis and suspected regions determining at the post-processing step on the external device. An advantage to meta-data analysis and suspected regions determining at the post-processing step on the external device is that an external device with more advanced capabilities can be used to manipulate the image then the camera has available. For this reason it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Matama include meta-data analysis and suspected regions determining at the post-processing step on the external device.

Regarding claim **11**, see the rejection of claim 1 and note that Matama et al. further discloses:

> Lens being used to capture the image, said meta-data information comprising focal length of the lens at the time of acquisition (7:52-8:38, 13:15-31 and Fig. 3).

Regarding claim **12**, see the rejection of claim 11 and note that Matama et al. further discloses:

> Meta-data information further comprising focusing distance of the lens at time of acquisition (7:52-8:38, 13:15-31 and Fig. 3).

Regarding claim **13**, see the rejection of claim 11 and note that Matama et al. is silent with regards to meta-data including sensor size. Velazquez et al. discloses this in ¶0013-0041 when talking about sensor resolution of pixels per inch. Velazquez et al. discloses in ¶0026 and 0040-0041 that using this data is advantageous in calculating the expected face size, which is used for determining whether red-eye correction is necessary. For this reason it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Matama include meta-data including sensor size.

Regarding claim **14**, see the rejection of claim 13 and note that Velazquez et al. further discloses calculating the expected size of red eye artifact based on metadata including acquisition device information in ¶0013-0041 where the expected face size is determined which is where red eye is expected to be present. Velazquez et al. discloses in ¶0026 and 0040-0041 that calculating the expected size of red eye artifact based on metadata including acquisition device information is advantageous because it can be determined whether or not red eye correction should be performed based on the calculated size. For this reason it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Matama include calculating the expected size of red eye artifact based on metadata including acquisition device information.

Regarding claim **15**, see the rejection of claim 14 and note that Velazquez et al. further discloses:

Calculated expected size of said red eye artifact being defined as a range with a density probability function, the range being calculated based on depth of field (¶0026, ¶0013-0041).

Velazquez et al. discloses in ¶0026 and 0040-0041 that using this data is advantageous in calculating the expected face size, which is used for determining whether red-eye correction is necessary. For this reason it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Matama include calculating the expected size of the red eye artifact being defined as a range with a density probability function, the range being calculated based on depth of field.

Regarding claim **16**, see the rejection of claim 13 and note that Velazquez et al. further discloses:

Calculated expected size of said red eye artifact being defined as a range with a density probability function, the range being estimated (¶0029, ¶0037, ¶0013-0041).

Velazquez et al. discloses in ¶0026 and 0040-0041 that using this data is advantageous in calculating the expected face size, which is used for determining whether red-eye correction is necessary. For this reason it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Matama include calculating expected size of said red eye artifact being defined as a range with a density probability function, the range being estimated.

Regarding claim **17**, see the rejection of claim 13 and note that Velazquez et al. further discloses:

Calculated expected size of said red eye artifact being defined as a range with a density probability function, said meta-data comprising anthropometrical data, and said range being determined by a statistical distribution of said anthropometrical data (¶0029, ¶0037, ¶0013-0041).

Velazquez et al. discloses in ¶0026 and 0040-0041 that using this data is advantageous in calculating the expected face size, which is used for determining whether red-eye correction is necessary. For this reason it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Matama include calculating expected size of the red eye artifact being defined as a range with a density probability function, the meta-data comprising anthropometrical data, and the range being determined by a statistical distribution of the anthropometrical data.

Regarding claim **18**, see the rejection of claim 11 and note that Matama et al. further discloses:

Determining operation including a probability determination process based upon a plurality of criteria (liable for redeye to exist, 13:15-31).

Regarding claim **19**, see the rejection of claim 11 and note that Matama et al. further discloses:

Adjusting a pixel color within any of said regions wherein red eye artifact is determined (8:4-26); and outputting image data to a printer (8:39-44).

Regarding claim **20**, see the rejection of claim 19 and note that Matama et al. is silent with regards to adjusting the pixel color in a printer. Velazquez et al. discloses

this in ¶0042-0043. Velazquez et al. discloses in ¶0043 that an advantage to adjusting color in a printer is that users review results and interact to accept or reject the result. For this reason it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Matama include adjusting the pixel color in a printer.

Regarding claim **21**, see the rejection of claim 11 and note that Matama et al. further discloses:

> Meta-data information comprising information describing conditions under which the image was acquired (13:15-31).

Regarding claim **22**, see the rejection of claim 21 and note that Matama et al. further discloses:

> Meta-data information comprising an indication of whether a flash was used when the image was acquired (13:15-31).

Regarding claim **23**, see the rejection of claim 21 and note that Matama et al. is silent with regards to using the aperture as meta-data. Velazquez et al. discloses this in ¶0013-0041. Velazquez et al. discloses in 0040-0041 that using the aperture is advantageous because it can be determined whether or not red eye correction should be performed based on the calculated size. For this reason it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Matama include the aperture as meta-data.

Regarding claim **24**, see the rejection of claim 21 and note that Matama et al. further discloses:

Analyzing pixel information within one or more regions (eyes) suspected as including red eye artifact based on said meta-data analysis, and determining whether any of said one or more suspected regions continue to be suspected as including red eye artifact based on said pixel analysis, said pixel analysis being performed after said meta-data analysis (7:52-8:38, 13:15-31 and Fig. 3).

Regarding claim **25**, see the rejection of claim 21 and note that Matama is silent with regards to using anthropometrical data. Velazquez et al. discloses this in ¶0013-0041. Velazquez et al. discloses in ¶0041 that an advantage to using anthropometrical data is that when a face candidate region score based on the data is below a threshold the region doesn't have to be evaluated for redeye. For this reason it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Matama's data include anthropometrical data.

Regarding claim **26**, see the rejection of claim 21 and note that Matama et al. further discloses:

A lens being used to capture the image, said meta-data information comprising focal length of the lens at the time of acquisition (13:15-31).

Regarding claim **27**, see the rejection of claim 26 and note that Matama et al. further discloses:

Meta-data information further comprising focusing distance of the lens at time of acquisition (13:15-31).

Regarding claim **28**, see the rejection of claim 26 and note that Matama is silent with regards to meta-data including sensor size. Velazquez et al. discloses this in ¶0013-0041 when talking about sensor resolution of pixels per inch. Velazquez et al. discloses in ¶0026 and 0040-0041 that using this data is advantageous in calculating the expected face size, which is used for determining whether red-eye correction is necessary. For this reason it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Matama include meta-data including sensor size.

Regarding claim **29**, see the rejection of claim 21 and note that Matama et al. further discloses:

> Adjusting a pixel color within any of said regions wherein red eye artifact is determined (8:4-26); and outputting image data to a printer (8:39-44).

Regarding claim **30**, see the rejection of claim 29 and note that Matama is silent with regards to adjusting the pixel color in a printer. Velazquez et al. discloses this in ¶0042-0043. Velazquez et al. discloses in ¶0043 that an advantage to adjusting color in a printer is that users review results and interact to accept or reject the result. For this reason it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Matama include adjusting the pixel color in a printer.

Regarding claim **74**, Matama et al. discloses:

> A method of filtering a red-eye phenomenon from an acquired digital image comprising a multiplicity of pixels indicative of color, the

pixels forming various shapes within the image (eyes etc.), the method comprising: (a) analyzing meta-data information including information describing conditions under which the image was acquired (7:52-8:38, 13:15-31 and Fig. 3); and (b) determining, based at least in part on said meta-data analysis, whether one or more regions within said digital image are suspected as including red eye artifact (7:52-8:38, 13:15-31 and Fig. 3).

Regarding claim **75**, see the rejection of claim 74 and note that Matama et al. further discloses:

Analyzing pixel information within one or more regions suspected as including red eye artifact based on said meta-data analysis, and determining whether any of said one or more suspected regions continue to be suspected as including red eye artifact based on said pixel analysis, said pixel analysis being performed after said meta-data analysis (7:52-8:38, 13:15-31 and Fig. 3).

Regarding claim **76**, see the rejection of claim 74 and note that Matama et al. further disclose:

Pixel analysis is performed after meta-data analysis (7:52-8:38, 13:15-31 and Fig. 3).

Regarding claim **77**, see the rejection of claim 74 and note that Matama is silent with regards to using anthropometrical data as meta-data. Velazquez et al. discloses this in ¶0013-0041. Velazquez et al. discloses in ¶0041 that an advantage to using

anthropometrical data is that when a face candidate region score based on the data is below a threshold the region doesn't have to be evaluated for redeye. For this reason it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Matama's meta-data include anthropometrical data.

Regarding claim **78**, see the rejection of claim 74 and note that Matama et al. further discloses:

> Filtering method being executed within a portable image acquisition device, having no photographic film (4:45-55, CCD).

Regarding claim **79**, see the rejection of claim 74 and note that Matama et al. is silent with regards to post-processing on an external device. Velazquez et al. discloses this in ¶0042. An advantage to post-processing on an external device is that an external device with more advanced capabilities can be used to manipulate the image then the camera has available. For this reason it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Matama include post-processing on an external device.

Regarding claim **80**, see the rejection of claim 74 and note that Matama et al. further discloses:

> Meta-data information describing the conditions under which the image was acquired comprising an indication of whether a flash was used when the image was acquired (13:15-31).

Regarding claim **81**, see the rejection of claim 74 and note that Matama et al. further discloses:

Determining whether said regions are actual red eye artifact being performed as a probability determination process based upon a plurality of criteria (liable for redeye to exist, 13:15-31).

Regarding claim **82**, see the rejection of claim 74 and note that Matama et al. further discloses:

Adjusting a pixel color within any of said regions wherein red eye artifact is determined (8:4-26); and outputting image data to a printer (8:39-44).

Regarding claim **83**, see the rejection of claim 82 and note that Matama is silent with regards to adjusting the pixel color in a printer. Velazquez et al. discloses this in ¶0042-0043. Velazquez et al. discloses in ¶0043 that an advantage to adjusting color in a printer is that users review results and interact to accept or reject the result. For this reason it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Matama include adjusting the pixel color in a printer.

16. Claim **35** is rejected under 35 U.S.C. 103(a) as being unpatentable over Silverbrook in view of Matama et al. (U.S. Patent No. 7,042,501).

Regarding claim **35**, see the rejection of claim 31 and note that Silverbrook is silent with regard to using a plurality of criteria to determine red eye. Matama discloses this in 13:15-31. Matama et al. discloses in 13:53-65 that an advantage to using a plurality of criteria to determine red eye is that if the criteria suggest that red-eye doesn't exist then red eye correction processing can be bypassed and not performed. For this

reason it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Silverbrook use a plurality of criteria to determine red eye.

***Conclusion***

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas G. Giles whose telephone number is (571) 272-2824. The examiner can normally be reached on Monday through Friday from 7:30am to 4:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lin Ye can be reached on (571) 272-7372. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NGG

LIN YE
SUPERVISORY PATENT EXAMINER